

REMARKS

Claims 1; 3; 15; and 16 have been amended.

Claims 1 to 10 and 15 to 23 remain in the application. Of these, claim 1 is the sole independent apparatus claim. Method claims 15 and 16 have been made dependent upon claim 1 and 2, respectively.

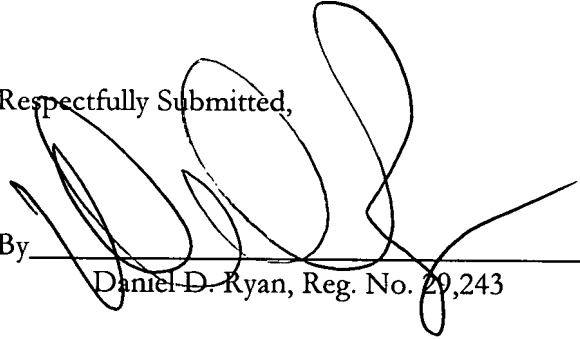
It is believed that the amendments to claims 1; 3; and 15 overcome the claim rejections based upon 35 U.S.C § 101. Claim 1 defines structure adapted to contact and conform to a skin region, and claim 3 define structure adapted to be worn on a thorax. Claims 15 and 16 define placing structure in acoustic contact with skin on a thorax. None of these claims affirmatively includes a patient as an element of the claim.

Applicant notes the provisional double patenting rejections based upon claims pending in Application Serial No. 09/935,907, which applicant believes should instead refer to be copending related Application Serial No. 09/938,307. Applicant also notes the provisional double patenting rejection based upon claims pending in Application Serial No. 10/202,494. Applicant notes that counterpart provisional double patenting rejections have been made by the Examiner in Application Serial No. 10/202,494 based upon Application Serial No. 09/938,307 and the instant application (Office Action Mailed March 15, 2007). Applicant will address the double patenting rejections upon the first indication of allowance of claims, but for the double patenting issue, either in this application, in the co-pending '307 Application, or the co-pending '494 Application, depending upon the sequence of allowance of claims in these applications. For example, if the instant application is allowed before allowance of claims in any of the remaining three applications, a terminal disclaimer would not be warranted in the instant application under any circumstance. Applicant seeks to avoid filing a terminal disclaimer based upon claims of a pending application, until such time that the subject matter of the claims in the pending application has been finalized, i.e., the claims have been allowed and the base issue fee paid.

Claims 1 to 10 and 15 to 23 of the instant application are believed to be in condition for allowance.

Respectfully Submitted,

By


Daniel D. Ryan, Reg. No. 29,243

RYAN KROMHOLZ & MANION, S.C.

Post Office Box 26618

Milwaukee, Wisconsin 53226

(262) 783 - 1300

6 December 2006

Customer No.: 26308

Enclosures: Amendment Transmittal
Return Postcard